

REMARKS

Claims 1-9, 25-33, 37-42, and 80-89 are now pending in the above-referenced patent application. In this amendment, claims 1-9, 25-33 and 37-42 have been amended, claims 10-24, 34-36, and 43-59 have been cancelled, and claims 80-89 have been added. In a previous response to a restriction requirement, claims 60-79 were withdrawn from consideration. Claims were amended or cancelled to more clearly delineate intended subject matter. Furthermore, it is believed that these amendments and cancellations do not narrow claim scope. Rather, in some circumstances, the claim scope may even be broadened. As a result, no prosecution history estoppel should result from these claim amendments and cancellations. Additionally, it is respectfully submitted that adequate support may be found in the specification for new claims 80-89. For example, adequate support may be found at least from page 6, lines 5-12, and page 6 line 25 to page 9 line 24 and Figures 2 and 3.

Claim Objections

In the Office Action, dated July 27, 2005, the Examiner objected to claims 2, 3, 5-10, 14-15, 17-22, 26-34, 38-39, 41-46, 49-50 and 52-57 for informalities. It is noted that these claims have been either amended to correct the inadvertent typographical error noted by the Examiner, or have been cancelled, rendering the objection moot. It is respectfully submitted that the amendments and/or cancellations of the above-noted claims address the objections, and, accordingly, it is respectfully requested that the Examiner withdraw these objections. Additionally, the Examiner objected to claims 2-7, 14-19, 26-31, 38-43 and 49-54 as being dependent on a rejected base claim, and noted that these claims would be allowable if rewritten in independent form. Assignee would like to thank the Examiner for identifying patentable subject matter. It is noted that in light of the amendments to the claims, the pending ones of these claims are now in a condition for allowance.

Claim Rejections – 35 USC 103(a)

In the Office Action, dated July 27, 2005, the Examiner rejected claims 1, 25 and 37 under 35 U.S.C 103(a) as being unpatentable over Storr (US Patent No. 6,633,543); rejected claims 9-13, 21-24,

33-36, 45-48, and 56-59 under 35 U.S.C 103(a) as being unpatentable over Storr in view of Lin (US Patent No. 5,764,641); and rejected claims 8, 20, 32, 44 and 55 under 35 U.S.C 103(a) as being unpatentable over Storr in view of Hernandez (US Patent No. 6,266,327). It is noted that claims 10-13, 20-24, 34-36, 44-48, 55-59 have been cancelled, and, therefore, these rejections are moot. The rejections of the remaining claims 1, 8-9, 25, 32-33 and 37 are respectfully traversed.

It is noted that in order to establish *prima facie* obviousness there must be some suggestion or motivation to modify or combine reference teachings, and the combination, if successful, must teach or suggest all of the claim limitations. As stated in the Manual for Patent Examining Procedure (MPEP), § 2142/2143, "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." It is respectfully submitted that the cited references do not meet these criteria. For example, the cited references, alone or in combination would still not teach or suggest all the claim limitations.

For example, referring first to claims 1, 25 and 37, it is respectfully submitted that Storr does not show or describe at least "a switching fabric including a plurality of ingress/egress points to switch routing paths of packets received through mediums coupled to the ingress/egress points; a first buffering structure, coupled to a first one of said ingress/egress points and a first one of said mediums, including a first FIFO storage structure to stage a first plurality of egress packets, and packet diversion and insertion logic to enable post-switching pre-medium diversion and insertion of egress packets on the first one of said mediums; and a second buffering structure, coupled to a second one of said ingress/egress points and a second one of said mediums, including a second FIFO storage structure to stage a second plurality of egress packets, and packet diversion and insertion logic to enable post-

switching pre-medium diversion and insertion of egress packets on the second one of said mediums.", as recited in claim 1, as amended.

Storr is directed toward multicast flow control, and describes receiving flow control cells at a switch, and aggregating the flow control cells to form an aggregate flow control cell. Storr does not teach or suggest any implementations having "packet diversion and insertion logic" as recited in claim 1. Therefore, it is respectfully submitted that Storr does not teach or suggest at least one limitation of claim 1, and claim 1 is, therefore, in a condition for allowance. Additionally, claims 25 and 37 are allowable over Storr for the same and/or similar reasons as those presented with respect to claim 1.

Additionally, claims 9 and 33 are not rendered obvious by Storr in view of Lin. Even if these references could be combined, although Assignee does not concede that they could be successfully combined, any resultant combination would still not teach or suggest all the claim limitations, and, therefore, would still not render the claims obvious. As just an example, as mentioned previously, Storr is directed toward multicast flow control, and describes receiving flow control cells at a switch, and aggregating the flow control cells to form an aggregate flow control cell. Storr does not teach or suggest any implementations having "packet diversion and insertion logic", and Lin does not cure this deficiency. Lin is directed toward an ATM system that employs an early packet discard system. The system employs the early packet discard system to compare a queue occupancy with a known threshold to determine if packets of a cell should be retained in the queue. Lin does not show or describe at least the limitations noted previously.

Additionally, claims 8 and 32 are not rendered obvious by Storr in view of Hernandez. Even if these references could be combined, although Assignee does not concede that they could be successfully combined, any resultant combination would still not teach or suggest all the claim limitations, and, therefore, would still not render the claims obvious. As just an example, as mentioned previously, Storr is directed toward multicast flow control, and describes receiving flow control cells at a switch, and aggregating the flow control cells to form an aggregate flow control cell. Storr does not teach or suggest any implementations having "packet diversion and insertion logic", and Lin does not cure this deficiency. Hernandez is directed toward an ATM network and testing the network for

conformance with a guaranteed frame rate service. Hernandez does not show or describe at least the limitations noted previously.

Assignee respectfully submits that, for at least the reasons presented above, a prima facie case of obviousness has not been established, and, therefore, the rejected claims are in a condition for allowance. It is noted that many other bases for traversing the rejection could be provided, but Assignee believes that this ground is sufficient. It is respectfully requested that the Examiner withdraw this rejections of these claims. Further, it is respectfully submitted that new claims 80-89 are directed to similar subject matter as claims 1-9, 25-33, 37-42, and should be allowable on at least the same basis as claims 1-9, 25-33, 37-42. Therefore, it is respectfully requested that the Examiner enter new claims 80-89, and allow all pending claims to proceed to allowance.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the claims pending in this patent application are in condition for allowance. If the Examiner has any questions, she is invited to contact the undersigned at (503) 439-6500. Reconsideration of this patent application and early allowance of all the claims is respectfully requested.

Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3703.

Respectfully submitted,

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